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SUBMISSION

TO THE

ONTARIO COMMITTEE

ON

TAXATION

FROM THE

CANADIAN CONSTRUCTION ASSOCIATION AND AFFILIATED

ONTARIO CONSTRUCTION ASSOCIATIONS

JANUARY 1964

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January 31, 1964.

The Chairman and Members,
The Ontario Committee on Taxation,
88 University Ave.,
Toronto 1, Ont.

Gentlemen:

The Canadian Construction Association appreciates this opportunity of presenting its observations on the taxation structure of the Province of Ontario on behalf of 500 Ontario members and member Construction Associations in the Province who have a combined membership of approximately 3,000. A list of these Associations is attached as Appendix "A".

Organized in 1918 the Association has an industry-wide membership consisting of leading firms of all sizes including general and trade contractors; road builders and heavy construction firms; manufacturers and suppliers of construction materials and equipment; and those providing services to construction firms. Most of the construction carried out in the Province of Ontario requiring the services of architects or consulting engineers is performed by members of the Association or its affiliates.

The Association serves Canada's largest industry. The annual value of construction for the Province of Ontario has exceeded $2½ billion annually since 1957 and the total value of construction in Canada has been in excess of $7 billion accounting for approximately 1/5 of the gross national product of Canada. The Dominion Bureau of Statistics has estimated that the total volume of construction for Ontario for 1963 will be $2.523 billion and it will provide the equivalent of 185,523 year round jobs on-site with a construction payroll of $880 million. An even greater number of off-site jobs are provided for the Ontario labour force in manufacturing, transporting and merchandising the $1.2 billion of construction materials and equipment required each year to execute the construction program.

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The Association serves Canada's largest industry. The annual value of construction for the Province of Ontario has exceeded [illegible] billion annually since 1957 and the total value of construction in Canada has been in excess of 27 billion accounting for approximately 1/3 of the gross national product of Canada. The Dominion Bureau of Statistics has estimated that the total volume of construction for Ontario for 1963 will be $7,333 billion and it will provide the equivalent of 165,000 man years employment with a construction payroll of $900 million. An even greater number of off-site jobs are provided for the Ontario labour force in manufacturing, transporting and merchandising the $7.2 billion [illegible] and equipment required each year to execute the construction program.

ADDENDUM TO THE CCA AND ONTARIO AFFILIATE BRIEF TO THE ONTARIO COMMITTEE ON TAXATION

Motor Vehicle, Gasoline and Fuel Tax

It is submitted that the tax levied under the Fuel Tax Act and the Gasoline Tax Act should not be levied on construction equipment other than licenced vehicles whether or not they are used for the construction and maintenance of roads.

The original intent of this legislation was a road usage tax and it is difficult to understand why the fuel tax is levied on fuel used in steamshovels, rock crushers etc. which may be some distance removed from the actual construction of the road itself.

There have even been cases reported where a road-building firm has been required to pay tax on propane used in field trailers for heating and cooking under the pretext that this propane could have been used in trucks. Apparently the Gasoline Tax Act is administered in such a way as if it contained the same requirement with regard to equipment used in the maintenance or construction of public thoroughfares as outlined in the Fuel Tax Act even though the phrase itself does not appear in the Gasoline Tax Act.

As the Province is one of the main purchasers of road construction and municipal roads all receive provincial grants the loss in revenue should not be significant. Moreover, the elimination of the taxes would tend to decrease the contractor's operating cost and due to the intense competition within the industry, this would in turn be reflected in the tender amounts received.

In exempting such equipment it would also remove a good deal of the present administrative difficulties involved as well as the difficulty now experienced by the taxpayer in accurately assessing his liability in advance, a liability that is required to tender accurately.

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DELEGATION TO APPEAR BEFORE ONTARIO COMMITTEE ON TAXATION
FEBRUARY 12th, 1964

CCA Representatives

D.H. Jupp, President
(President, Pilkington Brothers (Canada) Ltd., Toronto)

J.B. Waterhouse°, Ontario Vice-President
(President, Warren Bituminous-Paving Co. Ltd., Downsview)

G.H. Curtis, Assistant Ontario Vice-President
(President, Stone & Webster Canada Ltd., Toronto)

Thomas Gray, Member CCA Taxation Committee
(Secretary-Treasurer, Pigott Construction Co. Ltd., Hamilton)

K.V. Sandford, Secretary, CCA Taxation Committee, Ottawa

Ontario Affiliate Representatives

George Moller*, Chairman, Tax Committee, Ontario Federation of Construction Associations
(Vice-President, Robertson-Irwin Limited, Hamilton)

E.R. Graham*, Chairman, Legislation Committee, Toronto Construction Association
(Treasurer, Pilkington Brothers (Canada) Ltd., Toronto)

Trevor C. Cox, Executive Director, Ontario General Contractors' Association, Toronto

° Past-President, Ontario Road Builders' Association
* Members, CCA Taxation Committee

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Members of the construction industry are particularly interested in the subjects under review by your Committee because their operations are affected by taxation policies not only directly but also as they influence the capital investment decisions of their clients both private and public. In the following pages of our submission we will deal briefly with the various pieces of legislation and the regulations and administration thereunder as they may affect the construction industry and program. Generally it appears that the Province of Ontario has been able to establish a climate of certainty and co-operation with regard to the application of the various taxes. However there are certain imposts and methods of administration that we feel warrant your attention and we will deal with them in detail. On the overall picture though it appears that the construction firms operating in the Province of Ontario have received fair and equitable treatment with regard to imposition of the taxes. Indeed the Province of Ontario has in accordance with previous requests by construction associations made significant changes in the imposition of new levies as well as the method of handling refunds to exempt institutions that should serve as a model to the rest of Canada including the Federal Government.

Ontario Retail Sales Tax

The industry is opposed to the application of the Ontario Retail Sales Tax on construction materials and equipment as it is a tax on capital investment. It is felt that at a time when capital investment in Ontario needs all the encouragement possible the taxation of this sector of the economy is very short sighted. Resolutions to this effect have been passed at CCA Conventions for a number of years The latest passed at the last Convention in Winnipeg in January, 1963 is attached as Appendix "B". It is expected that a similar resolution will be passed during the forthcoming CCA Convention in Toronto from February 2 - 5, 1964.

Recent developments have increased our apprehension in this regard:

1) The imposition of sales tax on building materials at the Federal level of course had the natural result of raising the levy at the

Provincial level as it is imposed on the federal tax paid value. The statistics may not bear this out to date but it must be realized that the Federal Government plan on imposing this tax in stages has the effect of a stimulus in the initial stages of application and the resulting depressing effect will be amplified once the incentive has ceased to operate.

2) The more recent newscasts indicating a general rise in the Ontario rate will serve to compound the effect and we are seriously concerned that the deterring effect that these combined levies will have will be of serious proportions.

If the tax is not removed from all construction materials and equipment then it should at least be removed from those materials used to supply production facilities for manufacturers. This could be done either by exemption certificates or extending the percentage refund presently available to schools to include factories etc. for productive enterprises. The principle of excluding productive facilities has already been recognized by the Ontario Government through the exemption of production machinery and apparatus. This proposal is merely extending this principle to its logical conclusion.

The decrease in revenue that would come about by the above proposals could be made up by taxing all consumer services except perhaps medical hospitals, dental, optical and prescription drugs. In order to avoid double taxation all enterprises paying corporation income tax should not be considered consumers therefore rendering services made to them exempt.

If the governments concerned do not see fit to remove their sales taxes on building materials and equipment we urge the Committee to recommend to them that they give serious study to the possibility of collecting the tax in conjunction with the Federal Sales Tax as a single levy on the completed construction project. This tax would be levied at a rate which will approximate the Federal and Provincial taxes on the construction materials used in the project and the revenue would be distributed in accordance with a Federal - Provincial agreement. This would be quite distinct from a tax on real property inasmuch as it would not apply to non material cost factors e.g. labour and overhead. It is felt that this would be a much simpler

method of administering or collecting the tax and at the same time would remove inequities such as now exist in the present tax legislation between competing building materials and methods of construction, i.e. off-site or on-site fabrication. At the present time there are literally thousands of sales tax items that have to be calculated, paid, recorded and checked on each project. This could be replaced by one simple calculationbased on the total amount. Architects'and engineers' fees are computed as a percentage of contract value and the method has proven to be most satisfactory.

If such a system cannot be worked out then it is strongly recommended that all provincial sales taxes be standardized as much as possible so that taxpayers going from one province to another will be aware of their liabilities.

Rulings and Administrative Procedures

Notwithstanding the preceding recommendations regarding tax exemptions we would now like to examine some particular problems arising from the application of the present legislation:

1) Manufacturing Contractors

Member firms who manufacture and install their own products have been experiencing difficulty in establishing their Ontario sales tax liability under Ruling No. 3 (2) which states in part:

"Where a manufacturer becomes a construction contractor and uses materials that he has manufactured in the performance of the contract, he shall be regarded as the consumer of those materials he uses in performing the contract and shall pay tax directly to the Treasurer,

(a) on the cost of the tangible personal property he has manufactured, including the materials that went into it, the labour, all factory overhead costs and the tax payable under the Excise Tax Act (Canada) pursuant to section 31 thereof."

A number of smaller firms do not have the detailed accounting system required to establish the acceptable value for tax under this ruling. Also the imposition of the Federal Sales Tax on building materials has complicated the issue because under Regulation 22 under the Excise Tax Act they are required to establish the value for tax by backing out:

1. freight or cartage paid to independent carriers for transportation of the material and equipment required for erection or installation to the site of erection or installation, and
2. actual costs of erection or installation.

Thus the Ontario tax base and Federal tax base are arrived at by two different and complicated procedures. This very confusing and inequitable situation should be rectified since the administrative costs are disproportionate to the total revenue involved.

2) Administration

There have also been problems caused by the lack of uniformity in administering the present Act, Regulations and Rulings between centres in the province. Also, rulings received and considered to be final by the taxpayer have been reversed causing hardship and uncertainty. It is therefore recommended that steps be taken to ensure uniform application of the legislation and that more detailed instructions be circulated from headquarters to local tax offices as well as interested taxpayers.

Corporation Income Tax

Our main recommendation in this area is that the Government of Ontario should accept the Federal Government's offer to collect the corporation income tax and that the combined rate be substantially reduced. This would automatically ensure uniformity of the provincial and federal levy and at the same time provide a very necessary stimulus to economic expansion.

The deterring effect that the high rate of corporation income tax has on progressive expansion of business needs to be lessened before and not after our neighbours to the South take similar action. Apart from the economic arguments in favour of such action, the psychological effect of having the government participate in a greater share of the profits than the taxpaying corporation should not be overlooked. It is recommended that immediate action be taken to ensure that corporation income tax does not exceed 50% and that steps be taken to ensure still further reductions.

It is felt that our earlier proposal regarding the extension of the Retail Sales Tax to consumer services would provide the necessary alternate source of revenue.

If the Province of Ontario insists on collecting its own corporation income tax then the proposals made in our recent submission to the Royal Commission on Taxation have equal application here and are attached as Appendix "C".

Capital and Place of Business Taxes

It is felt that these taxes should be discontinued as their burden falls principally on companies that are operating at a loss or at a less than reasonable profit. As the revenue concerned is of a relatively minor nature there appears to be little justification for continuation of these levies. Also, the elimination of these imposts would remove a major stumbling block to provincial acceptance of the Federal offer to collect corporation income tax.

Succession Duties

Similarly the comments made in our submission to the Royal Commission on Taxation with regard to succession duties and estate taxes are applicable here and are attached as Appendix "D"

We sincerely recommend as in the case of corporation income tax that the Provincial Government relinquish the collection of succession duties in the Province of Ontario. Therefore all the complicating factors that are brought about by dual collections in a particular area will be eliminated. The case cited in Appendix "D" occurred in Ontario and serves to indicate the necessity of having uniform legislation in this regard. It is our first recommendation that the best method of obtaining such uniformity and reduction in administrative difficulties is to have the collection made at one level. However, again we would state that if this cannot be brought about then at least the legislation covering the collection of Federal estate taxes and Provincial succession duties should be standardized as much as possible.

Tax Appeal Board

As there is no appeal board as such established in the Province of Ontario for any of the provincial imposts it is our recommendation that such a board be set up and that the relevant

legislation be changed to allow appeals to such a board. This would be similar in nature to the Tax Appeal Board at the Federal level but would deal not only with income taxes but also sales taxes and succession duties. It is felt that the taxpayers in the Province of Ontario should have the right to appeal to a board set up for this purpose rather than incurring the expensive and lengthy procedure of applying to the Courts at the onset.

Municipal Taxes, Licence Fees etc.

Municipal Taxes

It is felt that municipal property taxes in the Province have often reached oppressive levels and positive steps should be taken to prevent further increases in this area.

As much of the municipal levy is used for educational purposes this Association subscribes to the thought that the collection of funds for education should be at a provincial level with administration left at the local school board level. This system would be in keeping with the traditional concept that municipal governments mainly service property while provincial governments service people. Steps should also be taken to bring about uniform assessed value based on present day values with the assessment rate not exceeding 2% of present market values.

Provincial lotteries could be an important alternate source of revenue for such purposes and we are interested to see that your Committee has this already under study.

Other Municipal Assessments

Construction contractors are faced with a number of municipal levies in the form of building permits, business licences, street usage taxes, encroachment taxes etc. In most cases these are fair imposts to cover the cost of fire and police protection and other municipal services. However, in some cases such imposts may become unfair and discriminatory. For example, there have been instances when street and sidewalk encroachment taxes were imposed without notice on the contractor after he has signed a firm price contract. The amount of the impost therefore represents a direct loss to the contractor as he is unable to pass the tax along as a cost of completing the project. Also, in some instances the

amount of encroachment required for a particular project is left to the discretion of a civic employee and not the contractor therefore, the encroachment levy can vary with the whims of a particular individual. Such cases although relatively rare are extremely onerous on individual contractors and it is recommended that your Committee study this area with a view to eliminating such inequities.

The Association would be glad to support this submission orally, at your convenience, with a representative committee of the CCA and its Ontario Affiliates.

All of which is respectfully submitted.

G.W.R. Bowlby Ontario Vice-President	G. Moller, Chairman Ontario Tax Committee	T.A. Somerville President

APPENDIX "A"

ONTARIO AFFILIATED ASSOCIATIONS

Ontario Federation of Construction Associations	Toronto
Ontario General Contractors' Association	Toronto
Ontario Road Builders' Association	Toronto
Brick & Tile Institute of Ontario	Willowdale
Ready Mixed Concrete Association of Ontario	Toronto
Canadian Sheet Steel Building Institute	Port Credit
Metropolitan Toronto Sewer & Watermain Contractors' Association	Don Mills
Builders' Exchange of Leamington	Leamington
Builders' Exchange of London	London
Chatham Builders' Exchange	Chatham
Hamilton Construction Association & Builders' Exchange	Hamilton
Kingston Builders' Exchange	Kingston
Kitchener-Waterloo Builders Exchange	Kitchener
Lakehead Builders' Exchange	Fort William
Niagara Peninsula Builders' Exchange	St. Catharines
Orillia District Builders' Exchange	Orillia
Oshawa & District Construction Exchange	Oshawa
Ottawa Builders' Exchange	Ottawa
Peterborough District Construction Exchange	Peterborough
St. Thomas & Elgin Builders Exchange	St. Thomas
Sarnia Builders & Contractors Association	Sarnia
Sault Ste. Marie Builders' Exchange	Sault Ste. Marie
Sudbury Builders' Exchange	Sudbury
Toronto Construction Association	Toronto
Windsor Builders' & Contractors' Exchange	Windsor

ONTARIO-BASED MEMBER ASSOCIATIONS

Air Conditioning & Refrigeration Contractors' Association of Ontario	Toronto
Canadian Automatic Sprinkler Association	Toronto
Canadian Institute of Steel Construction	Toronto
Canadian Plumbing & Mechanical Contractors Association	Toronto
Electrical Contractors Association of Ontario	Toronto

APPENDIX "B"

PROVINCIAL SALES TAXES ON CONSTRUCTION MATERIALS AND EQUIPMENT

WHEREAS: A tax is levied on construction materials and equipment in several provinces, thereby adding a considerable factor to construction costs, and

WHEREAS: Such imposts are a tax on capital investment and a deterrent to economic development and employment, and

WHEREAS: The Federal Government has recognized this factor and has granted exemptions from its sales tax for the majority of main construction materials,

THEREFORE BE IT RESOLVED: That the Canadian Construction Assn. strongly urges those Provincial Governments levying a tax to provide an exemption for construction materials, equipment and rentals of such equipment.

FEDERAL INCOME TAX

57. Reference was made in a previous section to the role of taxation policies in influencing the speed and nature of a country's economic development. Retained earnings are usually the largest single source of funds for the expansion of production facilities. Canadian industrialists should be afforded opportunities through tax rates and capital cost and investment allowances at least as favourable as those that are available in comparable countries.

58. Inasmuch as the profit motive is the main factor in business investment, it is essential that taxes do not reduce the profit potential to the point that the additional risks and efforts required outbalance the remaining incentive. (A similar situation exists on the personal level). Because of the very direct relationship between construction activities and investment in capital assets, members of our industry are possibly more aware than most of the importance of taxation regulations concerning the writing-off of such capital outlays as a factor in investment decisions.

59. The Association is concerned about the rate of taxes levied on corporate (and personal) incomes and will deal with this subject later. At this time it is desired to dwell on the allowances related to capital investment as affecting investment decisions and the establishment of "income" before taxes are applied. It is believed that these allowances should be regarded from the standpoint of adequacy both for accounting practice and for investment inducement at a time when an expanded economy is essential in terms of employment and competition.

Capital Cost Allowances for Owners

60. The present capital cost allowances for buildings are 5% or 10%, depending on whether the structure is, broadly speaking, "permanent" or semi-permanent. Most commercial or industrial buildings fall into the 5% category.

61. In some cases, the higher allowance rate for a less permanent type of structure, together with the lower cost, may combine to influence owners to select this type of building. There have also been arbitrary decisions concerning the dividing point between the two categories. For instance, building frames sheathed in steel sheets have a different allowance than those sheathed in aluminum sheets. The growing importance of mechanical and electrical installations in buildings is a supporting factor in the contention that the allowances for buildings should be increased. Similar "machinery and equipment" installed for production purposes within a building qualifies for a 20% rate.

62. An upwards adjustment from the 5% capital cost allowance for new buildings would not in itself likely constitute much of an incentive to businesses to invest in new buildings to expand and/or modernise their operations. The Association has long urged that there is a special need to provide real incentives to manufacturing and processing firms inasmuch as primary reliance is being laid on this group to supply new job opportunities for Canada's rapidly expanding labour force.

63. Within the manufacturing category the major capital outlay is for machinery and equipment. Expenditures for construction by manufacturers reflect in the main new or expanded production facilities and represent a principal source of additional employment. The total for 1957 was $652 million, the preliminary total for 1962 is $468 million and the predicted total for 1963 is $471 million.

64. In order to facilitate a general economic expansion, the Association has recommended that capital cost allowances in the business investment sector covering all new fixed assets generally be increased and that capital outlays for industrial plants specifically may be written off entirely in any five of the initial eight year

period. (January, 1963 Annual Meeting Resolution -- Appendix "B").

65. The Federal Government has introduced a variety of accelerated capital cost allowance and tax rebate programs since 1960 designed to encourage expanded capital investment, sales and research, all or any of which facilitate or reflect increased industrial production. The Association believes that all of these plans have been steps in the right direction but that their limited scope should be increased in order to obtain worthwhile and necessary results. (An analysis is contained in Appendix "C").

66. To date the most comprehensive taxation incentive offered in recent times in the field of faster write-offs is the provision in the 1963 Budget whereby "Canadian" manufacturers are enabled to write off production equipment in two years. Even here, however, there is a serious restriction in the form of a two-year time limit during which the assets must be acquired. Large-scale projects require one or two years to plan let alone to construct and equip. Accordingly there is a serious likelihood that such projects, which are the type especially desired to boost Canadian production and employment levels, will not qualify for the incentive -- unless of course they are already fully planned or nearly so and are likely to proceed anyway. The present time limit should therefore be amended to include all of those projects which have either started or reached a certain stage of completion.

67. Moreover, it will be noted that this new incentive refers only to manufacturers' machinery and equipment and not to their outlays for buildings (unless located in designated "slow growth" areas). Whereas in general the write-off provisions available on machinery may be more significant to manufacturers than on buildings because the outlay and percentage rates are larger, the investment in buildings is often very considerable and in particular cases is larger than in production equipment.

It is recommended, therefore, that the five-year write-off privileges be made available to all "Canadian" manufacturers concerning their construction requirements for new production facilities.

68. The restriction of the general accelerated write-off incentives to "Canadian" firms represents a further incentive -- i.e. for foreign-owned companies to become Canadian-owned to at least a certain degree. The prerequisites in this regard would appear to be reasonable ones in the ordinary way but the workings of these two incentives in practice should be carefully watched.

Professional Fees:

69. Capital investment would also be further encouraged if certain cost factors now capitalized could be classified as operating expenses and therefore subject to the equivalent of a 100% capital cost allowance. One example in this regard is the professional fees related to the architectural and engineering design and supervision work involved in construction projects when the services of outside consultants are used. Such a provision would have the further advantage of encouraging owners to have their design work prepared in advance. It would also place such matters on a more equitable basis in so far as the owners who have their own construction design staffs and those who engage consultants' services are concerned.

70. Similarly, other professional fees involved in the acquisition of capital assets are an essential cost of doing business and therefore should be allowed as expenses for income tax purposes. The same criterion should apply to the treatment of other professional fees incurred by a business even although they were not directly related to "the purpose of gaining or producing income from property or a business of the taxpayer." An example is the fees paid in connection with certain lawsuits or tax appeals.

Major Repairs:

71. At the present time taxpayers have the option of considering major repair and replacement expenditures to buildings as either a current operating expense or as a capital item that usually has a capital cost allowance rate of 5%. It is believed that there should be a further option available between these two extremes and it is recommended that such outlays be also allowed to be written off over a period of not exceeding five years.

Special Taxation Incentives:

72. The use of taxation incentives has been advocated by the Association not only as a means of increasing economic expansion and employment generally but also as a means of tackling specific unemployment problems of a seasonal or regional nature.

73. The Municipal Winter Works Incentive Program has been most helpful in reducing the wintertime lay-offs common in the type of work covered. The Association has recommended that builders be made eligible for similar incentives when required to install municipal services that subsequently become part of municipal systems. It has also been urged that the incentive principle be extended to privately-financed projects. One such example would make use of the Federal Income Tax Act by offering Owners accelerated capital cost allowance or an investment allowance based on construction payrolls during the winter months for projects commenced during a specified period. (Only the first winter would apply in the case of long-term projects).

74. The Association has also pointed out that faster write-offs and special tax concessions, such as the three-year period of freedom from taxation granted to mining projects, could be made available to businesses making capital outlays in designated areas or in industries where increased activity is deemed to be particularly in the national interest. It will be noted that five-year write-

offs for buildings and three-year tax holidays have been made available in the 1963 Budget for manufacturers in designated "slow growth" areas. Such devices may or may not be sufficient to attain the Government's objectives within a reasonably short time. In order to give the incentives a maximum chance it is most desirable that the business community be quickly given full details and certainty on which decisions may be made. There was a delay before the identity of the designated slow growth areas was made public and, at the time of writing, the Budget Proposal on the subject announced in mid-June is still not proclaimed as law.

Capital Cost Allowances for Contractors

75. Within the construction industry itself, the present 30% capital cost allowance for construction equipment is less generous than are available to contractors in other leading Western countries. When the diminishing balance method replaced the previous straight line depreciation, the new rates in other categories were doubled. In the case of contractors' equipment, however, the rate was increased by 50% or less. (The straight line rate on most moveable equipment was 20% and on trucks it was from 25% to 33 1/3%). Moreover, higher depreciation rates were available if equipment was used on multiple shift work and special rates could be negotiated with the Department of National Revenue. Neither of these practices is now permitted. Since the days of straight line depreciation, equipment is now often worked for more months of the year. In addition, models have rapidly increased in size and productivity with the result that obsolescence is now relatively more important. It is most desirable that contractors be encouraged to invest in new equipment, the main medium through which improved efficiency may be achieved.

76. Whereas the present 30% rate is an average rate covering all types of contractors' equipment, some contractors'

equipment may be far from being "average" in terms of life expectancy. Examples include those with a fleet of heavy construction equipment subjected to continuous operations in rugged terrain and those with an inventory of relatively small items with a life expectancy of a year or less.

77. Had the normal practice been followed at the time of conversion to capital cost allowances, a rate of 40% or more would have been established. In view of the subsequent developments, it is recommended that contractors be permitted a capital cost allowance of as high as 50% a year on the diminishing balance basis. Consideration should be given also to a 100% rate for short-life items, or to allow their purchase as an operating rather than as a capital expense. Complete write-offs should be permitted on abandoned equipment in isolated areas.

78. The industry favours the retention of one rate for the bulk of construction equipment in the interest of simplicity. Those who do not choose to use the proposed higher rate need not do so. Recapture provisions protect the Treasury if a higher rate is used than is appropriate. As an alternative, however, it is suggested that consideration be given to the establishment of a special Class which could be used by contractors, with the approval of the Department of National Revenue, for construction equipment acquired for use in specific operations characterised by excessive wear and tear. Such equipment might be permitted to be written off in three years with a straight line rate of 33 1/3% or in five years with a limitation of 33 1/3% in any one year.

79. The inadequacy of the present rates shows up clearly in the case of joint ventures for heavy construction projects because it is customary to dispose of the equipment at the end of the contract. One such example was given on page 6 of the brief submitted by a C.C.A. Affiliate, the Heavy Construction Association of British Columbia. Another appears in Appendix "D".

REPORTING OF INCOME

Holdbacks

80. It is customary for Owners to retain from the monthly progress advances made to contractors a "holdback", usually 10%, 15% or 20%, which is not released until the completion of the contract and expiry of lien rights. In the case of sub-contractors, full payment is in most cases deferred until after the prime contractor receives his final payment from the Owner. In the vast majority of instances, the holdback amount exceeds any profit earned and possibly may not ever be received. The Supreme Court of Canada decision in the case of M.N.R. vs. The John Colford Contracting Co. Ltd. states that holdbacks do not constitute "income" until the architect or consulting engineer issues his final certificate.

81. This decision has served to make those who advocate the completed contract method of reporting income for income tax purposes feel all the more strongly that this should be given legal status in the Income Tax Act. The Department of National Revenue has long permitted the use of this basis of income calculation on stipulated sum contracts of up to two years' duration. In the event, however, of any bona fide dispute over a Departmental assessment, no appeal may be lodged because the practice is not provided for in the Act. This is most inequitable.

82. It is noted that the Royal Commission has been requested to submit any preliminary recommendations that are deemed to be necessary for incorporation in the next Federal Budget Address. It is respectfully submitted that the very minor change giving equal status to the annual progress and completed contract methods of reporting income on construction contracts be included in such preliminary recommendations. In the case of long-term contracts, it is recommended that those using the completed contract method be permitted to defer reporting until the second year and then report annually thereafter.

83. An exception to the above would exist in the case of cost-plus-fee projects inasmuch as the contractor knows his income position at the end of the taxation year on any such project. The Department of National Revenue has administered stipulated unit price contracts on the same basis as cost-plus-fee contracts in that contractors are not permitted to use the completed contract method of reporting income on them. In this regard it is strongly submitted that the same elements of risk concerning loss are involved in a stipulated unit price contract as in a stipulated sum contract. Indeed, the risk may be even greater inasmuch as the quantities on which the unit prices are based may well be incorrect. It is accordingly recommended that those contractors using the completed contract method of reporting income be permitted to apply it to stipulated unit price contracts also.

Income Fluctuations:

84. The levels of work-volumes and of profits or losses of construction companies are frequently subject to widespread fluctuations. Firstly, most contractors are in the main dependent upon the investment decisions of others as to the type and amount of work that is available to the industry in the various sections of the country and of the construction industry. This often varies considerably from year to year. Secondly, contractors have to compete for contracts in an extremely competitive market. There is no assurance that a contractor will be successful in obtaining work in relationship to his capacity or on a reasonably stable annual volume basis. It is therefore usually impossible for a contractor to plan accurately his operations for even one year ahead.

85. Similarly, the ultimate profit or loss on a contract is impossible to predict at the outset. This is true even with regard to many cost-plus-fee contracts inasmuch as they have a guaranteed upset (i.e. maximum)

price. Accordingly, a contractor with even a high volume of work may by no means be assured of a satisfactory profit picture on his year's operations. Firstly, the contracts may have been undertaken at an uneconomically low price. Secondly, unforeseen expenses of very considerable size may well develop during the life of the contracts due to adverse weather conditions, work stoppages, cost rises not contemplated at the time of bidding (e.g. taxes and tariffs and trend-contrary material and labour cost rises), inequitable contract provisions, job-site misfortunes etc. characteristic of the high risk nature of construction operations.

86. The unreliability of such factors as weather and market conditions place the construction industry in somewhat the same position as agriculture and the fishing industry without the benefit of product price supports. While conceding that there are differences in the tax status of contractors and farmers, it is felt that the principle whereby farmers may average their incomes over a five-year period to avoid being penalized by an undue tax burden in a year with unusually high earnings also has application to the construction industry.

87. An alternative method of stabilizing contractors' incomes for taxation purposes would be through an extension of the carryback of losses provision from one to four years, the same period as is permitted in the carry-foward provision. This would permit a construction company which has enjoyed a good rate of profits and paid taxes thereon but which subsequently experiences difficult times, to recapture working capital badly needed in such times of stress. The further tightening of conditions concerning the carryback and forward of business losses in the 1963 Budget should prevent any abuse of the suggested liberalization of this measure by loss companies in the construction industry.

INCOME TAX RATES

88. The Association has previously recommended to the Federal Government that "the most effective incentive would likely be tax cuts through lower rates and/or rebates based on investment, increased production etc." It is recognized that such a step also involves consideration of such subjects as overall government revenues and outlays and the pros and cons of deficit financing. The Association is content to leave a discussion of such matters to those that are qualified to do so and only wishes to make a few comments from the standpoint of an industry that is largely engaged in carrying out a "private works" program.

89. There are of course many factors involved in a business decision to make a capital investment. Market potential, timing, degree of competition and so forth have to be considered and then assessed in terms of return on investment to judge whether or not the risk and effort is worthwhile. It is in this vital context that the subjects of write-off provisions, profits after taxes and related factors are of such fundamental importance. Furthermore, the relative terms that prevail in this regard may often have an appreciable bearing on whether a project is located in one country or in another. Contractors know from personal experience with cancelled or deferred projects how important the above factors are to their potential clients.

90. The income tax cuts that have been requested by the Federal Administration in the United States of America and which appear likely to be acted on will undoubtedly cause Canada to lose ground in the competition for investment capital so badly needed to keep the Canadian economy expanding. It is recommended that Canada not wait until adverse experience in this regard forces similar action in this country, but that tax cuts of a comparable nature be made before any serious damage takes place.

91. The relative impact of income taxes and other taxes in different countries also has an influence in competition for international trade. Whereas income taxes are exacted from profits, they also constitute a cost of business in so far as they are taken into consideration in the pricing of products or services. They therefore are a factor in competition against foreign goods. Moreover, inasmuch as Canada is particularly dependent upon exports, high rates of income tax are additionally troublesome in competing against firms from countries where relatively less reliance is placed on this type of tax. For example, sales taxes are not paid on goods sold in the export market and if exporting firms pay lower income tax rates, they have a cost advantage in this respect over Canadian firms.

92. Similarly, "income after taxes" is an important criterion in the international competition for professional and managerial personnel. This is especially the case regarding Canada and the U.S.A. Personal income tax rates, deductible allowances for dependents, house mortgage payments etc. are most significant in any assessment of salaries and living costs to someone contemplating a position across the border. Once again, it is most desirable that personal income tax rates and allowances in Canada be roughly in line with those in the United States. Indeed, a somewhat preferred situation in this regard in Canada would tend to stem the drain from the ranks of these groups through emigration.

EMPLOYEES' SPECIAL ALLOWANCES

93. The Association would like to record its strong support of the provision in the Income Tax Act whereby construction workers are permitted to exclude from their income reasonable allowances for board, lodging and transportation expenses when engaged on work away from where they maintain their ordinary place of residence. It is difficult enough as it is to encourage men to leave their homes to work on out-of-town projects and the treatment of these allowances as taxable income would cause very serious employment problems as well as injustice to the affected employees.

94. At the present time there is an apparent lack of clarity in the Income Tax Act and regulations as to what extent, if any, the depreciation of an executive-owned car used on company business may be reimbursed by the company without attracting tax. It is believed that there should be no difference between this situation and that where a company owns the car.

UNFAIR COMPETITION DUE TO DIFFERENT INCOME TAX APPLICATION

95. Construction companies are encountering inequitable competition to an increasing extent from co-operative enterprises and from publicly-owned bodies. In the first case the "Co-ops" enjoy important advantages from an income tax standpoint and in the second case no income tax is paid whatsoever. This is most unfair and it is strongly recommended that co-operative enterprises be placed on the same taxation basis as other business enterprises and that public bodies be prohibited from competing with taxable enterprises for construction work for other Owners.

96. At the present time, co-operative enterprises receive tax advantages or "incentives" that enable them to expand their operations in a manner that is not available to other businesses. Specific reference in this regard is made to the three-year exemption from income tax afforded new co-operative corporations under Section 73(1) of the Income Tax Act. No such "tax holiday" is provided to competing "business" corporations, partnerships or individual enterprises (unless they establish a manufacturing or processing operation in a designated slow growth area or open a mine). Then again, Section 75 of the Act concerning the deduction of patronage dividends in computing income has far greater application to "Co-ops" than to other enterprises. This situation greatly assists "Co-ops" in the accumulation of working and investment capital.

97. Members of the Association from Saskatchewan in particular have complained at the in-roads being made into the construction industry by co-operative builders' supply houses, hardware firms, lumber dealers and contracting firms, especially with regard to the three former categories. The tax advantages enjoyed by such firms are accumulative when they work together on a project. For example, the following plan was reported to us from Regina: A Co-op would obtain land for house-building purposes. A building firm had been

purchased and the previous management retained. Potential home-buyers would purchase a lot from the Co-op, arrange their financing through a co-operative credit union, employ the co-op builder who in turn would buy his materials from a co-op lumber yard and use co-op sub-contractors to the fullest possible extent. A co-op plumbing shop already was in business.

98. The construction industry faces very serious and unfair competition from governments and other public bodies who carry out construction work with their own forces or on a "day-labour" basis. It is recognized that this particular subject is not within your terms of reference so it will not be developed at this time other than to point out that the absence of competition for public works projects and the investment of public funds in expensive construction equipment that may well be related to them constitute unnecessary burdens to taxpayers. In addition, the practice reduces the scope for construction company operations and, incidentally, for the payment of taxes. The Royal Commission on Government Organization strongly supported these views.

99. The above situation is at times further aggravated by the entry of public bodies into competitive tendering for projects other than their own. During the past summer, for example, a municipality, which owns roadbuilding equipment and a gravel pit, submitted a tender to the Federal Department of Transport for an airport runway contract. Then again, a local Public Utilities Commission tendered on a Defence Construction (1951) Limited project involving a mechanical trades installation.

100. The Association has made representations to the Federal Government advocating that it prohibit public bodies from tendering any of its construction work for the reasons summarized in Appendix "E". In this instance it is not merely a case of making public bodies subject to taxes when they enter the construction business in competition with

private firms. The Income Tax Act specifically excludes municipal corporations from its definition of corporations and it would be impossible to establish the "taxable income" of such public bodies because of the basic differences in accounting procedures, financing etc. (It is recognized that certain Federal Crown Corporations do operate like private corporations and accordingly pay income tax.)

101. Accordingly, it is believed that in order to prevent unfair competition between private firms that are subject to income tax and public bodies that are not, the latter should be prevented from entering into competition for construction work that is not owned by the public body in question. In so far as Federal public works are concerned, the matter could be handled as a matter of Government policy and such action would be a most useful precedent. In other instances, the terms of municipal corporation charters might serve as a medium. The importance of corporation income taxes as a business cost is further reflected by the fact that exemption from paying them is cited as a major factor in the public take-over of private companies.

ADMINISTRATIVE PROCEDURES

102. The Association is pleased to make some miscellaneous comments and recommendations concerning current Federal Income Tax Act administrative procedures.

Advance Rulings:

103. It is recommended that taxpayers should be able to obtain from the Department of National Revenue advance rulings as to the income tax implications of proposed changes in business methods, mergers, take-overs, expansions etc. This would enable executives required to make such important decisions to have before them all pertinent facts rather than hypothetical possibilities.

Public Information:

104. It is believed that more complete information on tax matters should be available to taxpayers. For example, at least some of the contents of the Department of National Revenue manual for its assessors would be appropriate as a guide for businesses. This would also tend to offset the present inequity resulting from the fact that smaller firms do not have the same access to expert accounting and legal advice on tax matters as do the larger firms. Moreover, contrary to a recent Tax Appeal Board decision, it is believed that Department of National Revenue officers should be instructed to advise taxpayers of serious and obvious over-payments of tax if so detected by them -- at least to the extent of suggesting that they check their present methods of reporting.

Substantial Completion of Contracts:

105. It is recommended that the term "substantially complete" used in dealing with the reporting of income on construction contracts be more clearly defined by the Department of National Revenue. As it is, disputes may arise as to in which year's income a contract should be included.

Refund Procedures:

106. It is believed that there is at present inequitable treatment of under-payment penalties and over-payment refunds and that this is further accentuated by the length of time that is often experienced in the processing of refund claims. One such case cited to the Association, in which there was a sizeable refund resulting from a change in the taxpayer's status, involved a fifteen month delay from the date of application to that of payment. 3% interest is paid by the Federal Government but the taxpayer has to pay approximately double this rate for any borrowings made in anticipation of the refund, quite apart from being denied the use of financial resources.

107. It is noteworthy that the taxpayer is subject to penalties for any erroneous claim made in the same manner as if the error had been made in the original tax return; is required to pay 6% interest in the event of under-payment; and is not permitted to include this interest cost as a deduction from taxable income.

108. It is recommended that efforts be made to expedite refund procedures and it is submitted that the taxpayer should be entitled to an immediate refund if an eligible claim is for a portion of taxes previously over-paid. Inasmuch as contractors are entitled to interest at 5% if the Federal Government delays payment on progress and final estimates on public works projects, it is felt that at least a similar rate of interest should be paid on delayed refund payments.

Provision for Bad Debts:

109. The basis for interpretation of the provisions for bad debts apparently may vary between different auditors of the Department of National Revenue. For example, a member of the Association was audited twice in a two-year period. The first auditor required that calculations be based on a percentage formula on dated accounts and the company amended its procedure accordingly. The second auditor, however, disallowed this method and long, drawn-out negotiations ensued. Ultimately, the company established a lump sum reserve. Inconsistent policies give rise to serious inequities, uncertainties and additional overhead expenses. It is most desirable that the provisions of the Income Tax Act and of its regulations be applied consistently throughout the country.

a) ESTATE TAXES AND SUCCESSION DUTIES

162. The C.C.A. feels there is a need to simplify and combine the machinery for the collection of Estate Tax by the Federal Government and Succession Duties by those Provinces still making separate collections.

163. It is hoped that an agreement can be reached between the three provinces that continue to levy their own succession duties and the Federal Government similar to that in effect in the other provinces. This would eliminate in the administration of estates the cost of filing separate returns and then dealing separately with two departments of Government in connection with evaluation of the same assets.

164. One of our local Affiliates has advised us of a case in which one department held out for evaluation of the asset at two and one-half times the value accepted by the other department. In one case, the only sale of an asset that could be affected was at the lower evaluation and that turned out to be a propitious sale under the circumstances.

165. At the present time the estate taxes payable on the death of a father who commenced a thriving business make it very difficult to keep the business healthy and strong financially because of the need to provide for estate taxes on the death of the father. Monies which should be channelled into the business operations are often required to be set aside or to be used for the purchase of large insurance policies to provide for estate taxes.

166. This also applies in the case of two or more partners building up a business and attempting to plan their respective estates so that:

1) the surviving partner(s) can purchase the deceased partner's interest, and,

2) adequate cash will be made available for the estate taxes.

The problem is further amplified if one of the parties involved is uninsurable.

167. In smaller cities and communities which rely for their growth and proper development on the strength of small family businesses and partnerships, it is important to the economy of such communities that the development of these businesses be not unduly hampered by the aforementioned estate taxes.

168. It has been shown that the total sums collected in estate taxes do not warrant the heavy cost of administering and enforcing the relative statutes and it would seem that, as the historical background of imposition of these taxes was to prevent great wealth becoming concentrated in a few hands, this end might well be served by generally raising the exemptions of estates from these taxes to a level of $100,000.00 without any real loss of revenue to the taxing authorities, this would permit the continuation of small family businesses and partnerships which are now hampered in their growth by the necessity of providing for estate taxes.

169. As the value of a construction business is very often dependent upon the executive ability of one man, it therefore decreases in value after his death. In order to assess properly its value, it is submitted that the heirs should have the option of deferring the evaluation for a year so that a figure more closely reflecting the true value of the estate will be used in assesing the estate taxes and succession duties.

170. The CCA feels that the exemptions now available are not realistic in today's economy. It used to be that a widow with children left with $50,000 was well taken care of. Today the income would be barely sufficient. We believe that a blanket exemption from husband to wife, and wife to husband should be not less than $100,000.